

1 **RESOLUTION NO. 2022-135**

2 **A RESOLUTION OF THE ALBANY CITY COUNCIL ADOPTING**  
3 **LOCAL AMENDMENTS TO THE 2022 CALIFORNIA GREEN BUILDING CODE**

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5 **WHEREAS**, the City Council of the City of Albany adopted the Albany 2035 General  
6 Plan on April 18, 2016; and

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8 **WHEREAS**, The City of Albany General Plan Policy *CON-6.1: Green*  
9 *Construction* directs the City towards development of standards and guidelines which support  
10 “green” construction and environmental leadership in the building industry; and

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12 **WHEREAS**, Action *CON-6.A* requires “new construction to meet or exceed California  
13 Green Building Code standards for energy and water efficiency,” and that “Albany’s building  
14 codes should be regularly reviewed and periodically amended to meet or exceed state  
15 requirements;” and

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17 **WHEREAS**, The City of Albany Climate Action and Adaptation Plan (CAAP)  
18 established the objective of 70% greenhouse gas (GHG) emissions reductions by 2035, and net  
19 zero emissions by 2045; and

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21 **WHEREAS**, The CAAP focuses on reducing emissions from the City’s largest  
22 emissions sectors, including new and existing buildings. An estimated 40% of GHG emissions  
23 in Albany result from the building sector; and

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25 **WHEREAS**, CAAP Action 3.2.6 directs the City to “Adopt voluntary green building  
26 tiers;” and

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28 **WHEREAS**, The City of Albany General Plan Policy *T-2.3: Low-Emission Vehicles*  
29 directs the City to “encourage the use of low emission or zero emission vehicles, along with  
the infrastructure to support such vehicles, such as electric vehicle charging stations;” and

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2           **WHEREAS**, The CAAP established the goal that 98% of passenger vehicles in Albany  
3 be electric vehicles by 2045; and  
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5           **WHEREAS**, CAAP Action 1.2.2 directs the City to “adopt an electric vehicle  
6 readiness ordinance that would increase the charging requirements for new construction and  
7 renovations;” and  
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9           **WHEREAS**, The General Plan Policy *CON-4.3: Low Impact Development* directs the  
10 City to “support the use of pervious pavement” to “capture and filter rainwater and reduce  
11 runoff to local creeks and the Bay;” and  
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13           **WHEREAS**, Policy *CON-6.9: Reducing Water Usage* directs the City to partner with  
14 EBMUD, PG&E, StopWaste and other organizations to achieve water efficiency and reduced  
15 usage and support indoor and outdoor conservation practices; and  
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17           **WHEREAS**, on January 19th, 2021 the Albany City Council unanimously approved  
18 Resolution No. 2020-127: A Resolution of the Albany City Council to Adopt Green Building  
19 Measures; and  
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21           **WHEREAS**, on December 6th, 2021 the Albany City Council unanimously approved  
22 Resolution No. 2021-118: A Resolution of the Albany City Council Updating and Amending  
23 Green Building Measures; and  
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25           **WHEREAS**, the California Health and Safety Code (HSC) Section 18941.5, with  
26 reference to HSC Section 17958.7, allows for more restrictive local amendments that are  
27 reasonably necessary because of local climatic, geological, or topographical conditions.  
28 California Code of Regulations, Title 24, Part 11, California Green Building Standards Code  
29 (CALGreen), Section 101.7.1, provides that local climatic, geological, or topographical

1 conditions include environmental conditions established by the city, county, or city and county;  
2 and

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4 **WHEREAS**, Section 12-6.1(b)(4)(p) of the Albany Municipal Code allows the City  
5 Council to establish, by resolution and periodically review and update, more-stringent  
6 voluntary measures contained in the California Green Building Standards Code appendices to  
7 address local environmental conditions; and

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9 **WHEREAS**, the proposed resolution does not involve a commitment to or require a  
10 significant physical change in future projects, and thus is not a “project” as defined by  
11 California Environmental Quality Act (CEQA) Guidelines Section 15378; and

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13 **WHEREAS**, the State of California allows local jurisdictions to amend the California  
14 Building Standards Code where necessary to reasonably address adverse local conditions  
15 related to climate, geology, and/or topography, and thus the City Council makes the following  
16 findings regarding local conditions:

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18 a) The City of Albany is a dense built-out community with predominately older wood-  
19 frame commercial and residential structures that lack modern fire protection  
20 elements, are located on small lots with minimal setbacks that increase the potential  
21 for rapid fire spread, and are reached by narrow streets that often hamper  
22 emergency response; and
- 23 b) The eastern edge of the City of Albany is located less than two miles from the  
24 ridgeline of the East Bay Hills, in the path of “Diablo Winds,” which could rapidly  
25 bring a wildland fire from the East Bay Hills into the City; and
- 26 c) The City of Albany lacks access to secondary sources of water for fire suppression  
27 in the event of damage to primary water supply; and
- 28 d) The City of Albany is frequently exposed to extremely high risk “red flag” fire  
29 conditions consisting of warm temperatures, low humidity, and strong winds that

1 combine to produce an increased risk of fire danger. These conditions have  
2 worsened in recent years due to global warming; and

3 e) Furthermore, climate conditions have resulted in the City of Albany experiencing  
4 dangerous air quality for weeks, even from distant fires; and

5 f) Reducing greenhouse gas (GHG) emissions associated with the design,  
6 construction, maintenance, and operation of buildings is necessary to reduce the  
7 City of Albany's contribution to climate change, which is causing the severe local  
8 climatic conditions; and

9 g) The City of Albany is vulnerable to major earthquakes on the San Andreas,  
10 Hayward and Calaveras faults, which are expected to result in damage to aging  
11 underground infrastructure including natural gas lines and water lines needed for  
12 fire suppression. Reducing the reliance on natural gas in new construction will  
13 decrease the risk of fires caused if aging underground gas lines rupture in a seismic  
14 event; and

15 h) The City of Albany has moderate to highly expansive soils present throughout most  
16 of the built-out portions of the City of Albany; and

17 i) The waterfront portion of the City of Albany includes poorly compacted artificial  
18 fill.

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20 **NOW, THEREFORE, THE ALBANY CITY COUNCIL RESOLVES AS**  
21 **FOLLOWS:.**

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23 **Section 1: Applicability**

24 The requirements of this Resolution shall apply to applications subject to zoning clearance  
25 submitted on or after the effective date set forth in Section 6, for all buildings proposed to be  
26 located in whole or in part within the City, except for the following activities:

- 27 A. Interior improvements  
28 B. Normal repairs or replacement  
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- 1 C. Accessory buildings which are located in a rear yard and do not exceed one hundred-  
2 twenty square feet in area and twelve feet in height.
- 3 D. The following types of signs:
- 4 1. Signs which are allowed without a sign permit, as listed in Section 20.36.
- 5 2. Signs which are allowed by Section 20.32 with a zoning clearance. A zoning  
6 clearance may include consideration of design characteristics.
- 7 (a) Change of message on an existing sign.
- 8 (b) Fascia signs.
- 9 (c) In-window permanent signs.
- 10 E. Television and other antennas.
- 11 F. Roof replacement materials, flashing, roof vents, gutters and downspouts, on  
12 residential buildings.
- 13 G. Skylights on residential buildings, not to exceed a twelve (12)-inch projection above  
14 the roof surface.
- 15 H. Other minor exterior alterations that the Community Development Director may  
16 determine are similar in visual impact to those listed herein.
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18 This Resolution will supersede Resolutions Nos. 2020-127 and 2021-118. Applications  
19 submitted prior to the effective date of this Resolution, shall comply with Resolution No. 2020-  
20 127 as applicable. Buildings must comply with all measures that are applicable to the building  
21 type in question and to the specific areas of the building in which construction is occurring.

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23 **Section 2: Definitions**

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- 25 A. Accessory Dwelling Unit (ADU) has the same meaning as defined in the 2022  
26 California Building Code, Title 24, Part 11, Section 202.
- 27 B. Addition means an extension or increase in floor area of an existing building or  
28 structure.
- 29 C. Alteration means any construction or renovations to an existing structure other than  
repair or addition.

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- D. All-Electric Building means a building in which all appliances are fueled only by electricity and neither natural gas nor combustion equipment is used.
- E. Clean Air Vehicle means a zero-emitting, fuel-efficient, or carpool/vanpool vehicle as defined in the 2022 California Building Code, Title 24, Part 11, Section 202.
- F. Electric Vehicle Charging Station (EVCS) shall have the same meaning as defined in the 2022 California Building Code, Title 24, Part 11, Section 202.
- G. Electric Vehicle-Capable Space shall mean a vehicle space for which there is electrical panel space to accommodate the future installation a 40-ampere dedicated branch circuit and overcurrent protective device. Construction documents shall indicate wiring schematics, raceway methods, the raceway termination point and proposed location of future EV spaces and EV chargers. Raceways and related components that are planned to be installed underground, enclosed, inaccessible or in concealed areas and spaces shall be installed at the time of original construction.
- H. Major Alteration means a building undergoing an alteration that requires the installation of an automatic fire sprinkler system according to Chapter 11 of the Albany Municipal Code.
- I. Mixed-fuel Building means a building that is fueled by both natural gas and electricity.
- J. Multi-family Building means a residential building that contains more than two dwelling units, excluding accessory dwelling units.
- K. Natural Gas shall have the same meaning as “Fuel Gas” as defined in California Plumbing Code and Mechanical Code.
- L. Newly Constructed Building shall be defined as a building, including an accessory dwelling unit, that has never before been used or occupied for any purpose.
- M. Nonresidential Building means all buildings that are not classified in Occupancy Group R-2, R-3, or R-4, as defined in the 2022 California Building Code, Title 24, Part 2, Section 310.
- N. Permeable Paving means paving using materials and techniques which allow the movement of water around the paving material and allow precipitation to percolate through the paving surface to the soil below.

- O. Residential Building means a structure arranged, designed, and intended to be occupied as a primary residence. This includes all buildings of Occupancy Group R-2, R-3, or R-4, as defined in the 2022 California Building Code, Title 24, Part 2, Section 310, including any associated ADU's.
- P. Repair means reconstruction or renewal of any part of an existing building for the purposes of maintenance or damage correction.
- Q. Resilient Flooring has the same meaning as defined in the 2022 California Building Code, Title 24, Part 11, Section 202.
- R. Scientific Laboratory Building means a building which is classified in Occupancy Group L, as defined by the California Building Code, Title 24, Part 2, Section 313.
- S. Single-family Building means a structure that contains one or two dwelling units. An accessory dwelling unit may also be located in or associated with a single-family dwelling and may be attached or detached.
- T. Volatile Organic Chemicals, or "VOC" has the same meaning as defined in the 2022 California Building Code, Title 24, Part 11, Section 202.

**Section 3: All-Electric Requirements**

All newly constructed buildings and major alterations shall be all-electric buildings. All new appliances installed to serve newly constructed ADUs must be all-electric.

**Requirements for combustion equipment**

- A. Where combustion equipment is allowed per Exceptions under Section 5 the construction drawings shall indicate electrical infrastructure and physical space accommodating the future installation of an electrical heating appliance in the following ways, as certified by a registered design professional or licensed electrical contractor; and
- B. Branch circuit wiring, electrically isolated and designed to serve all electrical heating appliances in accordance with manufacturer requirements and the California Electrical

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Code, including the appropriate voltage, phase, minimum amperage, and an electrical receptacle or junction box within five feet of the appliance that is accessible with no obstructions. Appropriately sized conduit may be installed in lieu of conductors; and

C. Labeling of both ends of the unused conductors or conduit shall be with “For Future Electrical Appliance”; and

D. Reserved circuit breakers in the electrical panel for each branch circuit, appropriately labeled (i.e. “Reserved for Future Electric Range”), and positioned on the opposite end of the panel supply conductor connection; and

E. Connected subpanels, panelboards, switchboards, busbars, and transformers shall be sized to serve the future electrical heating appliances. The electrical capacity requirements shall be adjusted for demand factors in accordance with the California Electric Code; and

F. Physical space for future electrical heating appliances, including equipment footprint, and if needed a pathway reserved for routing of ductwork to heat pump evaporator(s), shall be depicted on the construction drawings. The footprint necessary for future electrical heating appliances may overlap with non-structural partitions and with the location of currently designed combustion equipment.

**Section 4: Green Building Requirements**

A. Twenty percent (20%) of the parking spaces in newly constructed multi-family buildings, rounded to the nearest whole number, shall be Electric Vehicle Charging Stations. The remainder of the parking spaces shall be Electric Vehicle-Capable. Branch circuit panelboard(s) shall be installed that contain the physical space to accommodate the future installation a minimum of one 40-ampere dedicated branch circuit and overcurrent protective device per EV-Capable space and have sufficient



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electrical capacity to deliver a minimum 40 amperes at 208 or 240 volts multiplied by 20% of the total number of parking spaces. The service panel and/or subpanel circuit directory shall identify the overcurrent protective device space(s) reserved for future EV charging purposes as “EV CAPABLE” in accordance with the *California Electrical Code*.

- B. All new construction, alterations, and additions of residential buildings shall be required to comply with all applicable measures listed in Appendix A.
- C. All new construction, alterations, and additions of nonresidential buildings shall be required to comply with all applicable measures listed in Appendix B.

**Section 5: Exemptions**

- A. The requirements of this Resolution shall not apply to projects that have an active zoning clearance application submitted on or before 30 days after adoption by the Albany City Council.
- B. If the applicant establishes that there is not an all-electric prescriptive compliance pathway for the building under the California Building Energy Efficiency Standards, and that the building is not able to achieve the performance compliance standard applicable to the building under the Energy Efficiency Standards using commercially available technology and an approved calculation method, then the local enforcing agency may grant a modification. The City shall have the authority to approve alternative materials, design and methods of construction or equipment per California Building Code Section 104.
- C. Notwithstanding the requirements of this Chapter and the Greenhouse Gas Emissions and other public health and safety hazards associated with Natural Gas Infrastructure, minimally necessary and specifically tailored Natural Gas Infrastructure may be allowed in scientific laboratory buildings.
- D. If an applicant for a nonexempt project believes that circumstances exist that make it a hardship or infeasible to meet the requirements of this Resolution, they may apply for an exemption or reduction in requirements as set forth below. In applying for an

1 exemption, the burden is on the applicant to show financial hardship or physical  
2 infeasibility.

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- 4 1. Application. If an applicant for a nonexempt project believes such  
5 circumstances exist, the applicant may apply for an exemption at the time of  
6 planning application submittal.
  - 7 2. Granting of Exemption. The granting of an exemption shall be made by the  
8 overall project decision-making authority. If an exemption is granted, the  
9 applicant shall be required to comply with this Chapter in all other respects.
  - 10 3. Denial of Exemption. If the decision-making authority determines that it is  
11 possible for the applicant to fully meet the requirements of this Chapter, they  
12 shall so notify the applicant.

13 **Section 6: Effective Date; Prior Resolution Superseded**

14 The requirements of this Resolution shall be effective 30 days after adoption by the City  
15 Council. This Resolution shall supersede Resolution No. 2021-118 and Resolution No. 2020-  
16 127 as of its effective date, except as specified in Section 1 herein.

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18 **Section 7: Filing; Posting**

19 The City Clerk is hereby directed to file a copy of this Resolution with the California Building  
20 Standards Commission and the California Energy Commission of the State of California. The  
21 City Clerk is directed to cause copies of this Resolution to be posted or published as required  
22 by law.

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PRESTON JORDAN, MAYOR

27 **Attachments:**

28 Appendix A: Residential Non-Energy Measures  
29 Appendix B: Non-Residential Non-Energy Measures

**Appendix A: Residential Non-Energy Measures**

Measure	Construction type	Building type
Newly installed paving shall meet the Tier 2 requirements of the 2022 California Green Building Standards Code, Title 24, Part 11, Section A4.106.4.	New construction, alterations, and additions	Multi-family, Single family, and ADUs
In each unit where a dishwasher or clothes-washer is being installed, at least one dishwasher or clothes-washer shall be Energy Star approved.	New construction, alterations, and additions	Multi-family, Single family, and ADUs
Kitchen faucets shall have a maximum flow rate of no more than 1.5 gallons per minute.	New construction, alterations, and additions	Multi-family, Single family, and ADUs
The cement content of all concrete shall be reduced by at least 25%. The cement shall be replaced by fly ash, slag, silica fume, rice hull ash, or another suitable material.	New construction, alterations, and additions	Multi-family, Single family, and ADUs
At least 90% of the total area of resilient flooring installed shall comply with the VOC-emissions limits set forth in the 2022 California Green Building Standards Code, Title 24, Part 11, Section A4.504.2	New construction, alterations, and additions	Multi-family, Single family, and ADUs

1 **Appendix B: Non-Residential Non-Energy Measures**

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Measure	Construction Type
4 Designated parking spaces for clean air 5 vehicles shall make up 12% of the parking 6 spaces constructed, rounding to the nearest 7 whole number. Parking spaces shall be 8 marked as described in 2022 California 9 Green Building Standards Code, Title 24, 10 Part 11, Section A5.106.5.1.3.	New construction, alterations, and additions
11 A 12% reduction in potable water use within 12 the building will be achieved by complying 13 with 2022 California Green Building 14 Standards Code, Title 24, Part 11, Section 15 A5.303.2.3.1	New construction only
16 Concrete shall comply with 2022 California 17 Green Building Standards Code, Title 24, 18 Part 11, Sections A5.405.5	New construction, alterations, and additions
19 At least 90% of the total area of resilient 20 flooring installed shall comply with the 21 VOC-emissions limits set forth in the 2022 22 California Green Building Standards Code, 23 Title 24, Part 11, Section A5.504.4.7	New construction, alterations, and additions

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